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October 7, 2022

VIA ECF

The Honorable Edgardo Ramos
United States District Judge
Thurgood Marshall United States Courthouse
40 Foley Square
New York, New York 10007

Re: United States v. Milton, 21-cr-478 (ER)

Dear Judge Ramos:

We write with what I believe will be our final requests regarding the jury instructions.

First, we reiterate our request that the Court instruct the jury using our Requests 48 and 61. We have set forth our position in writing, *see* ECF 204, and orally at the charge conference. If the Court rejects that request, then, in the alternative, we ask the Court to instruct the jury using the defense-theory instruction attached to this letter, which, we contend, is very targeted to the issue of intent to harm and very important to convey to the jury.

Second, we attach marked-up pages of the Court's draft Jury Instructions, circulated last evening at 5:03 p.m., showing specific requested edits, as follows:

- **Page 4:** We ask the Court to insert the word "alleged." I apologize for not spotting this yesterday at the conference.
- **Page 16:** We ask the Court, once again, to delete the first sentence of the third full paragraph. We contend that the sentence is inapplicable and confusing to the jury. It uses language ("became a member . . . with knowledge of its general scope and purpose") that injects inapplicable concepts of conspiracy law.
- **Page 18:** We ask the Court to re-insert "or an honest error." This would conform the instruction to the request I made, which the Court granted, at the charge conference (where I asked the Court to delete the words "in judgment" and "in management"). *See* Transcript 2957:8-21.

We thank the Court for its time, patience and consideration.

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Respectfully submitted,

/s/ Kenneth A. Caruso
Kenneth A. Caruso

cc: All counsel of record